



New South Wales

Health Records and Information Privacy Code of Practice Amendment (Domestic Violence Intervention) 2010

under the

Health Records and Information Privacy Act 2002

I, the Minister for Health, in pursuance of section 40 of the *Health Records and Information Privacy Act 2002*, do, by this my Order, make the following Health Privacy Code of Practice.

CARMEL TEBBUTT, M.P.,
Minister for Health

Explanatory note

This Order amends the *Health Records and Information Privacy Code of Practice 2005* to modify the application of the *Health Records and Information Privacy Act 2002* (*the Act*) in respect of public sector agencies and private sector persons that participate in the Domestic Violence Intervention Court Model (*the scheme*). The scheme applies to:

- (a) alleged perpetrators of domestic violence who have been charged with a domestic violence offence by a police officer in the Campbelltown, Macquarie Fields or Wagga Wagga Local Area Command or against whom proceedings for a domestic violence offence have been commenced in (or moved or adjourned to) the Local Court at Campbelltown, Junee, Temora or Wagga Wagga, and
- (b) victims (including alleged victims) of those perpetrators, and
- (c) persons in a domestic relationship with those victims.

This Order permits a public sector agency, or a private sector person, that participates in the scheme to collect, hold, use or disclose health information about the persons to whom the scheme applies without complying with a number of the Health Privacy Principles in the Act. However, any such collection, holding, use or disclosure must be for the purposes of the scheme and must be done in accordance with the privacy procedures for the scheme that are approved by the Attorney General from time to time.

This Order also exempts a public sector agency, or a private sector person, that participates in the scheme from the provisions of the Act that enable a person to have access to the person's own health information. Such access is not required to be provided in respect of health information held for the purposes of the scheme unless the person seeking access to their own information is a victim.

2010 No 234

Health Records and Information Privacy Code of Practice Amendment (Domestic Violence Intervention) 2010

This Order is made under section 40 of the *Health Records and Information Privacy Act 2002*.

Health Records and Information Privacy Code of Practice Amendment (Domestic Violence Intervention) 2010

under the

Health Records and Information Privacy Act 2002

1 Name of Code

This Code is the *Health Records and Information Privacy Code of Practice Amendment (Domestic Violence Intervention) 2010*.

2 Commencement

This Code commences on the day on which it is published in the Gazette.

2010 No 234

Health Records and Information Privacy Code of Practice Amendment
(Domestic Violence Intervention) 2010

Schedule 1 Amendment of Health Records and Information Privacy Code of Practice
2005

Schedule 1 Amendment of Health Records and Information Privacy Code of Practice 2005

[1] Part 1

Insert before clause 1:

Part 1 Preliminary

[2] Clause 3 Notes

Omit the clause. Insert instead:

3 Definition

(1) In this Code:

the Act means the *Health Records and Information Privacy Act 2002*.

(2) Notes included in this Code do not form part of this Code.

[3] Part 2

Insert after clause 3:

Part 2 Human services

[4] Part 3

Insert after clause 4:

Part 3 Domestic Violence Intervention Court Model

5 Definitions

In this Part:

domestic relationship has the same meaning as in the *Crimes (Domestic and Personal Violence) Act 2007*.

domestic violence offence has the same meaning as in the *Crimes (Domestic and Personal Violence) Act 2007*.

person who has been charged with an offence has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

scheme—see clause 6.

victim of domestic violence means a person who has been, or who is alleged to have been, the victim of a domestic violence offence.

6 The scheme

(1) In this Part:

scheme means the scheme known as the Domestic Violence Intervention Court Model.

(2) The objects of the scheme are as follows:

- (a) to ensure the safety of victims of domestic violence and persons in domestic relationships with those victims,
- (b) to ensure that persons who have been charged with domestic violence offences are dealt with appropriately,
- (c) to prevent persons who commit domestic violence offences from re-offending,
- (d) to improve the coordination of services to victims of domestic violence and persons in domestic relationships with those victims,
- (e) to ensure domestic violence matters are effectively managed throughout the criminal justice process.

7 Persons to whom Part applies

This Part applies to the following persons:

- (a) a person who has been charged with a domestic violence offence by a police officer in the Campbelltown, Macquarie Fields or Wagga Wagga Local Area Command within the NSW Police Force,
- (b) a person against whom proceedings for a domestic violence offence have been commenced in (or moved or adjourned to) the Local Court at Campbelltown, Junee, Temora or Wagga Wagga,
- (c) a victim of domestic violence in respect of an offence referred to in paragraph (a) or (b),
- (d) a person in a domestic relationship with a victim referred to in paragraph (c).

8 Non-compliance with certain health privacy principles

A public sector agency, or private sector person, that participates in the scheme is not required to comply with Health Privacy Principle 1 (1), 2, 3, 4, 6, 8, 10 or 11 in respect of the collection,

2010 No 234

Health Records and Information Privacy Code of Practice Amendment
(Domestic Violence Intervention) 2010

Schedule 1 Amendment of Health Records and Information Privacy Code of Practice
2005

holding, use or disclosure of health information about a person to which this Part applies, if that collection, holding, use or disclosure is:

- (a) for the purposes of the scheme, and
- (b) done in accordance with the privacy procedures for the scheme that are approved by the Attorney General from time to time.

9 Access to health information

- (1) A public sector agency that participates in the scheme is not required to comply with Health Privacy Principle 7 in respect of health information about a person to which this Part applies that is held for the purposes of the scheme, unless the person is a victim of domestic violence.
- (2) A private sector person that participates in the scheme is not required to comply with Divisions 3 and 4 of Part 4 of the Act in respect of health information about a person to which this Part applies that is held for the purposes of the scheme, unless the person is a victim of domestic violence.

BY AUTHORITY
